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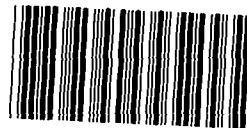
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VIA FEDERAL EXPRESS

November 25, 1992

EPA, REGION VIII  
HAZARDOUS WASTE  
MANAGEMENT DIVISION

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Richard J. Guimond  
Deputy Assistant Administrator  
U.S. Environmental Protection Agency  
Office of Solid Waste and Emergency Response  
401 M Street, S.W.  
Washington, D.C. 20460

RE: Corrections to Notes Taken by Barbara O. Bach,  
EPA, at Congressman Owens/Richard Guimond Meeting,  
September 15, 1992, Concerning EPA's Proposed  
Listing of the Richardson Flat Tailings Site,  
Summit County, Utah, on the National Priorities  
List

Dear Mr. Guimond:

I am in receipt of a copy of the Memorandum to the  
Record, dated October 19, 1992, prepared by Barbara O. Bach,  
Environmental Scientist, EPA, concerning her Notes from the  
above-referenced meeting held on September 15, 1992. I am par-  
ticularly concerned that Ms. Bach's Notes do not give a complete  
and accurate account of the discussion held during the September  
15, 1992 meeting.

As you requested, Mr. Edwin L. Osika, Jr., Executive  
Vice President of United Park City Mines Company, sent to you, by  
letter dated November 24, 1992, a written summary of the Septem-  
ber 15, 1992 meeting, taken from the outline used by Mr. Osika  
and me for this meeting and from our notes of this meeting, and I  
believe that this summary is a more complete and accurate account  
of our discussion at that meeting. However, because Ms. Bach has  
submitted her "Notes" for inclusion in the Administrative Record,  
I wish to submit the following corrections to her Notes as part  
of that Record.

I have two general observations concerning Ms. Bach's  
Notes. First, Ms. Bach should not have attempted to make direct  
quotations in her Notes, since she did not take dictation at the  
meeting and she did not tape record the discussion at the meet-  
ing. In the "direct quotations" in her Notes, she not only has

Richard J. Guimond  
November 25, 1992  
Page 2

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statements inaccurately quoted, but she has such quotations attributed to the wrong persons.

Second, Ms. Bach's Notes create the impression that the meeting was argumentative and hostile and that you were quite rude, blurting out statements such as "What's your case?" I do not remember your making this interjection. Indeed, I found that you were attentive, courteous, and very polite during our meeting, not at all rude, and that you assured us that the Comments of United Park City Mines Company would be thoroughly reviewed by EPA and that no RI/FS activities would be undertaken on the site until EPA had responded to United Park's Comments and made a decision as to the listing of the site on the NPL.

The following are corrections for specific paragraphs in Ms. Bach's Notes (references to paragraph and page numbers are to Ms. Bach's Memorandum to the Record dated October 19, 1992, regarding her Notes):

Paragraph 1, Page 2: Both of the dates cited in this paragraph are incorrect. The following is an accurate summary of Ms. Beless' statement.

Correction: Ms. Beless explained that this meeting was requested because United Park City Mines Company ("United Park") is extremely concerned that someone at EPA is determined to list the Richardson Flat Tailings site in Summit County, Utah, on the NPL in spite of the fact that the scientific, quantified, analytical data which EPA has collected for this site does not support such a listing. In fact, such listing appears to contradict EPA's own analytical reports. For instance, EPA's 1989 Supplemental Site Inspection Report concludes there is no release to surface water from the Richardson Flat site, and EPA's 1988 Analytical Results Report for Ambient Air and Residential Characterization at Prospector Square, Park City, Utah, concludes that there is no air release of contaminants from Richardson Flat to Prospector Square which is the closest population center (1.5 miles from the Richardson Flat site).

Ms. Beless further stated that EPA first proposed to list the Richardson Flat site in 1988 on the basis of a 1985 surface water sampling investigation in which EPA's contractor did not take a surface water sample downstream from the Richardson Flat site. In its Comments to EPA, United Park pointed out that the surface water sampling study contained no downstream sample. In response to United Park's Comments, EPA caused a new surface

Richard J. Guimond  
November 25, 1992  
Page 3

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water sampling study (with both upstream and downstream samples) to be conducted at the site in 1989 in order to find out if there was any release of contaminants into the surface water from the Richardson Flat site. EPA's new study definitively concluded that there was no release to surface water from Richardson Flat.

With no release to surface water, Richardson Flat scored so low under the old Hazard Ranking System that EPA dropped the site from consideration for the NPL on February 11, 1991. Now, with no additional testing, sampling, or studies performed at the site, EPA is again proposing to list Richardson Flat on the NPL under the new Hazard Ranking System.

Paragraph 3, Page 2: Mr. Osika, not Ms. Beless as is shown in Ms. Bach's Notes, stated that EPA's aerial and on-site photographs cannot and do not show a release of tailings to surface water. Mr. Osika's statement is summarized below.

Correction: Mr. Osika explained that EPA's aerial and on-site photographs cannot and do not show a release of tailings to surface water. He stated that it is physically impossible, visually or photographically, to "observe releases" of tailings into surface water, since the natural soil in the area (alluvium derived from local tan to gray volcanic rocks) is easily mistaken for "tailings" (light gray in color). Only sampling and analysis can show a "release of tailings" into the surface water, and EPA's own sampling and analysis shows that there was no release from Richardson Flat into the surface water.

Paragraph 4, Page 2: Paragraph 4 of Ms. Bach's Notes is incorrect. Mr. Osika was not attempting to show a distinction between tailings and volcanic alluvium. Mr. Osika was showing from the photographs that it is not possible to distinguish tailings from the natural volcanic alluvium in the area merely by a review of the photographs.

Correction: Mr. Osika then showed the group a photograph of natural volcanic alluvium at the site and a photograph of tailings and explained that tailings and the natural volcanic alluvium cannot be distinguished by color or in the photographs. Only sampling and analysis can show a "release of tailings" into surface water, and EPA's own sampling and analysis showed that there was no release from Richardson Flat into the surface water.

Paragraph 6, Page 2: Paragraph 6 of Ms. Bach's Notes is not an accurate quotation, and it should not be attributed to

Richard J. Guimond  
November 25, 1992  
Page 4

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Ms. Beless. Mr. Osika spoke on this subject, and an accurate summary of his discussion is set forth below.

Correction: Mr. Osika explained that EPA has attempted to contrive a "release to surface water" by means of the inaccurate and inconsistent recollections of EPA's contractors. He stated that EPA located one employee of its contractor, two years after the employee was at the Richardson Flat site, and asked the employee if, "to the best of his recollection," the tailings extended into Silver Creek. The employee indicated that "to the best of his recollection," they did. However, his recollection is inaccurate. The employee's observations, sampling, and analysis are compiled in the EPA's 1989 Supplemental Site Inspection Report, which shows no release into surface water and no tailings contact with surface water.

Mr. Osika also explained that EPA uses, as a basis for its scoring, the revised recollection of a state employee who walked around the site taking measurements, but did not take any samples or perform any testing. The state employee submitted a memorandum summarizing his site visit, without any mention of a release to surface water. Two months later, the employee revised his memorandum to say "Tailings sloughing into a diversion ditch were observed." However, the state employee took no sample of the material, and therefore, he could not know if the material he allegedly observed was tailings or the native volcanic alluvium. His revised memorandum also contradicts his original memorandum.

Likewise, Mr. Osika stated that EPA incorrectly calculated the wetland frontage for the scoring of the site, in apparent disregard to HRS guidance on this subject, and therefore, grossly over-estimated the wetland frontage area.

Mr. Osika then asked why EPA is creating this tenuous, unscientific, unsubstantiated information in an attempt to show a release to surface water when EPA's own sampling and analysis show no release.

Paragraph 7, Page 2: Paragraph 7 is an inaccurate summary of Ms. Beless' statement; an accurate summary of her discussion is set forth below.

Correction: Ms. Beless explained that, as to an air release, EPA scored a release to air on the basis of one air sample taken in 1986 -- even though that one air sample did not exceed EPA's own ambient air standards. She then asked why no

Richard J. Guimond  
November 25, 1992  
Page 5

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consideration was given to the fact that, since EPA's 1986 air test, United Park has, at its own expense, covered almost the entire tailings area with topsoil and has seeded and revegetated the area.

Paragraph 8, Page 2: As stated above, I do not remember Mr. Guimond exclaiming "What's your case?" I believe Mr. Guimond asked for specific details concerning United Park's work on covering the site.

Paragraph 9, Page 2: Mr. Osika responded to Mr. Guimond's question, but the direct quotation attributed to Mr. Osika in Paragraph 9 of Ms. Bach's Notes is totally inaccurate. Mr. Osika did not speak of any "planned remediation." An accurate summary of his statement is presented below.

Correction: Mr. Osika explained that since 1983 United Park has, at its own expense, covered the tailings area with clean topsoil and has seeded the area with native plants and generally revegetated the area. This covering and revegetation program is now approximately 75-80% complete.

Paragraph 10, Page 2: Paragraph 10 does not contain enough detail to clarify the meaning of the statements. An accurate summary of Ms. Beless' statements in this discussion are contained below.

Correction: Ms. Beless then asked why EPA is ignoring its own conclusion in its 1988 Prospector Square Air Report that the tailings at Richardson Flat do not contribute to air contamination at Prospector Square. She asked why there was no consideration given to the fact that mountains form a barrier in the air pathway between Richardson Flat and Park City, the only relevant population center. She also asked why EPA ignored the fact that its air samples from Richardson Flat do not exceed EPA's own ambient air standards, particularly the ambient air standard for lead. Ms. Beless also asked why EPA ignored the extensive health tests on residents of Prospector Square which show that residents' blood levels for lead were substantially lower than the national average. She stated that no persons reside on the Richardson Flat site; the closest community is 1.5 miles away at Prospector Square. The tests by the Agency for Toxic Substances and Disease Registry show that residents of Prospector Square suffer no harmful effects from the tailings.

Richard J. Guimond  
November 25, 1992  
Page 6

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Paragraph 1, Page 3: This summary does not contain enough detail to make any sense. A correct summary of Mr. Osika's statement is contained below.

Correction: Mr. Osika stated that, under EPA's "Make NPL Sites Safe Initiative" program, EPA conducted additional air testing in May, 1992 at the site. EPA's analysis of the samples collected during this air testing proves that there is no release to the air. This conclusion is confirmed by the analysis of the duplicate air samples provided to United Park by EPA during this testing.

Paragraph 2, Page 3: This paragraph is an inaccurate summary; an accurate summary of Ms. Beless' statement is contained below.

Correction: Ms. Beless explained that, in order to increase the score at the Richardson Flat site high enough to list it on the NPL, EPA combined the Richardson Flat site with another separate and distinct site: the floodplain sediments flowing down Silver Creek from Prospector Square. The floodplain sediments are of significantly different origin, composition (different chemical analysis), location, containment, and ownership than the Richardson Flat site, and the two sites should not be combined. The floodplain sediments are not a source, but are surface water sediments contaminated by migration from upstream at Prospector Square. EPA's own regulations do not allow these separate sites to be combined. In order to accurately evaluate the sites, the floodplain sediments migrating down Silver Creek from their source at Prospector Square should be separated from the Richardson Flat site and be treated on an equal basis with their originating source at Prospector Square. Ms. Beless then asked why EPA had combined these two separate sites.

Paragraph 4, Page 3: This summary is inaccurate; Mr. Osika did not state that "aerial photography reflects 6,000,000 square feet of pure elemental form." An accurate summary of Mr. Osika's statement is contained below.

Correction: Mr. Osika asked why EPA's analysis assumes that all hazardous substances (heavy metals) at the site are found in their elemental forms, rather than as much less toxic compounds. He stated that these trace metals (copper, lead, and arsenic) are not found in their pure, elemental, toxic forms at the site, but are found as much less toxic, sulfide compounds.

Richard J. Guimond  
November 25, 1992  
Page 7

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Mr. Osika then asked why EPA has assumed, from its aerial photographs, that the Richardson Flat site contains 6 million square feet of 100% pure, elemental, toxic metals, when, in fact, almost the entire site (greater than 95%) is composed of country rock (limestone and quartz).

Paragraph 5, Page 3: This summary is entirely inaccurate; United Park has never denied approval of any EPA sampling plan. An accurate summary of Mr. Osika's statement is contained below.

Correction: Mr. Osika explained that, after again proposing Richardson Flat for listing to the NPL in 1992, EPA presented an extensive sampling plan to United Park under EPA's "Make NPL Sites Safe Initiative" program, and specifically represented to United Park that the sampling plan was to assess the safety at the site and not to address United Park's Comments to the HRS package. Then, when EPA had gained access to the site under the "Make NPL Sites Safe Initiative" program, EPA blatantly attempted to deviate from the presented sampling plan and collect samples which would specifically address United Park's Comments (as documented by EPA's own August 25, 1992 Memorandum to the File). Mr. Osika asked why EPA feels the need to gain access to the site under false and misleading representations. Mr. Osika also asked why, if EPA feels the need to perform additional sampling in order to respond to United Park's Comments, EPA cannot be honest with United Park and present a sampling plan for that purpose, as EPA did in 1989 in order to respond to United Park's Comments concerning the first proposed listing. Mr. Osika also asked why EPA has felt it necessary to perform extensive sampling at the site under its "Make NPL Sites Safe Initiative" program with this proposed listing, when EPA performed no sampling and made only a "drive-by" review of the site under the previous 1988 proposed listing.

Paragraph 6, Page 3: Mr. Guimond asked when United Park's covering of the tailings would be completed.

Paragraph 7, Page 3: This summary of Mr. Osika's statement is inaccurate; an accurate summary is contained below.

Correction: Mr. Osika stated that United Park's project to cover the tailings and revegetate the area will probably be completed by the summer of 1993, or possibly sooner, depending upon weather conditions.

Richard J. Guimond  
November 25, 1992  
Page 8

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Mr. Hank Rothwell then added that United Park has, voluntarily and at its own expense, covered the tailings area with topsoil (in excess of 5,500,000 cubic feet) and has seeded and revegetated the area in order to preclude any potential dust problem.

Paragraph 8, Page 3: This paragraph is entirely inaccurate; an accurate summary of Mr. Osika's statement is contained below.

Correction: Mr. Osika stated that, in recent weeks, EPA has again attempted to enlarge the Richardson Flat site by including the former Park City Municipal Landfill within the boundaries of the site. The landfill, used by Park City during the 1970's and early 1980's, was recontoured, covered with topsoil and revegetated by the Bureau of Reclamation and the Utah Department of Transportation in order to construct the new U.S. Highway 40 through the former landfill.

Mr. Osika explained that, in June 1992, EPA's contractor, E&E, under EPA's "Make NPL Sites Safe Initiative" program, drilled a monitoring well directly through the landfill and breached the impervious clay layer which had formed a continuous barrier between the landfill materials and the groundwater. EPA's contractor did not replace this impervious barrier during well construction and completion. Therefore, the underlying groundwater could flow up the well, under pressure, and into the base of the formerly dry landfill. When this water discharges from the base of the landfill, either as springs or to Silver Creek, it would be contaminated by whatever is in the landfill. Likewise, when water from rainfall and/or snow-melt percolates down through the landfill and flows down through the wells into the groundwater, the groundwater below the impervious clay layer would be contaminated by whatever is in the landfill.

Mr. Osika stated that EPA violated its own guidelines by drilling the monitoring well directly through the landfill area. Prior to the installation of the well, the landfill was isolated from the groundwater system. EPA's contractor has now breached this natural compacted clay barrier, and EPA is, thus, responsible for the ensuing potential groundwater and surface water contamination. Mr. Osika then asked what EPA plans to do to remedy this contamination problem, which has been caused by EPA and EPA's contractor. Mr. Osika also asked if EPA will now attempt to blame United Park and other parties for this contamination caused by EPA and EPA's contractor.



Richard J. Guimond  
November 25, 1992  
Page 9

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Paragraph 9, Page 3: Mr. Guimond stated that EPA Region VIII is reviewing the monitoring well issues in order to address United Park's concerns regarding the monitoring wells which were drilled in the landfill.

Paragraph 10, Page 3: The summary and quotations in paragraph 10 are entirely incorrect and do not reflect Ms. Beless' statements. An accurate summary of her statements is contained below. Ms. Beless did not expect a project manager to be responsible for responding to Comments. Likewise, Ms. Beless did not "accuse Rich Guimond's staff by personally benefitting by the number of sites they list or cleanup."

Correction: Ms. Beless stated that United Park's concern is that EPA will cause millions of dollars to be spent on a Remedial Investigation/Feasibility Study at the Richardson Flat site before EPA has even read and addressed United Park's detailed, substantive Comments in opposition to listing the site. This money need not be expended if EPA were to first address United Park's Comments. Ms. Beless noted that, as of this date, the EPA project manager in Region VIII for the site, had told Ms. Beless that he had not even read United Park's Comments. Ms. Beless then asked if there were any incentive for a project manager to delist a site from the proposed NPL, since he would only receive a bonus if he saw the site through the listing and remediation processes.

Paragraph 11, Page 3: Mr. Guimond assured Ms. Beless that this was not the case, but that incentives were sometimes given to EPA personnel for superior performance.

Paragraph 1, Page 4: The accurate form of Ms. Beless' question is contained below. Also, Ms. Bach's Notes fail to record Mr. Guimond's response to Ms. Beless' question. The question was asked and the response given twice during the discussion. Ms. Beless' question and Mr. Guimond's response are accurately summarized below.

Correction: In order to make sure that there was no confusion, Ms. Beless asked Mr. Guimond the following question twice: Would EPA agree that no Remedial Investigations, Feasibility Studies, or other additional studies be conducted until such time as EPA has responded to United Park's Comments and has made a final decision as to the listing of the Richardson Flat site on the National Priorities List?

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Richard J. Guimond  
November 25, 1992  
Page 10

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In response to Ms. Beless' question, Mr. Guimond responded twice that he agreed no Remedial Investigations, Feasibility Studies, or other additional studies will be conducted until such time as EPA has responded to United Park's Comments and has made a final decision as to the listing of the Richardson Flat site on the NPL.

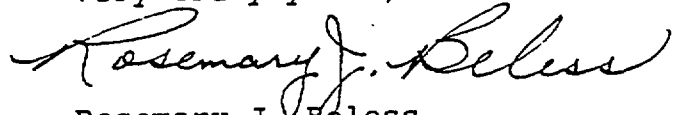
Paragraph 2, Page 4: The direct quotation attributed to Mr. Osika in Ms. Bach's Notes is totally inaccurate. Mr. Osika made no statement concerning Senator Hatch or the Governor of Utah, or their influence upon "the political outcome of Prospector Square." Mr. Osika's statement is accurately summarized below.

Correction: Mr. Osika stated that it is not United Park's desire to politically influence the decision of EPA. It is United Park's concern that its Comments be answered by EPA and that EPA not cause millions of dollars to be expended before United Park's Comments are fully answered.

I would appreciate your adding these corrections to Ms. Bach's Notes to the Administrative Record.

Thank you again for meeting with us on September 15, 1992. We appreciate the genuine concern you showed for our comments, and we thank you for your courtesy.

Very truly yours,



Rosemary J. Beless  
Attorney for United Park City  
Mines Company

RJB:jmc:111992A

cc: Congressman Wayne Owens  
Joshua Sheinkman, Administrative Assistant  
to Congressman Owens  
Barbara O. Bach  
✓ Jack W. McGraw, Acting Regional Administrator,  
EPA Region VIII